

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

EDUCATION MANAGEMENT
SERVICES LLC

Plaintiff

v.

MARK CADERO

Defendant

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No. SA-14-CA-587

ORDER DENYING MOTION FOR CONTINUANCE

On this day came on to be considered the Plaintiff's motion for a continuance in the above-styled and numbered cause (Docket No. 33). While the motion ranks as one of the more unusual ones to come before the Court, it lacks merit, and should be denied.

The instant case is scheduled for trial in this Court on June 29, 2015. The record reflects that suit was originally filed in state court on June 20, 2014. On July 1, 2014, the Defendant filed a notice of removal, removing the case to this Court. On October 1, 2014, the Plaintiff filed an amended complaint (Docket No. 9). Counsel for the Plaintiff and the Defendant then engaged in significant motion practice. On December 1, 2014, the Court entered a Scheduling Order (Docket No. 20). That Order established a discovery deadline of April 21, 2015, and a trial date of June 29, 2015.

On April 16, 2015, five days before the discovery deadline, Plaintiff's lead counsel, Andrew J. Moon, filed the present motion for continuance. According to the motion, attorney Moon has experienced the sudden revelation that he "is no longer comfortable or capable in handling this matter without assistance of additional and more experienced litigation counsel."¹ In addition to requesting a four-month continuance of the trial, the motion seeks an unspecified extension of the deadline for discovery.²

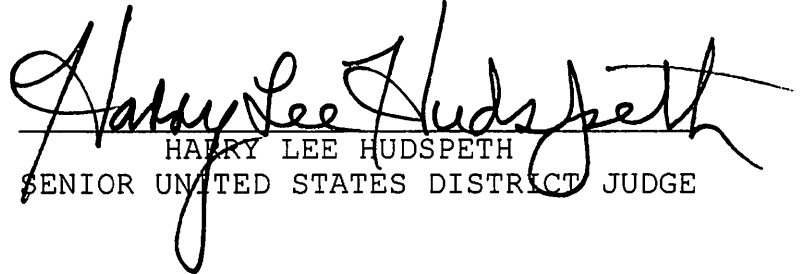
Defense counsel has filed a written objection to the motion for continuance (Docket No. 34). He contends that counsel for the Plaintiff has failed to show good cause for the requested continuance, and that his client, Defendant Cadero, will be substantially prejudiced by any delay. The Court agrees. Attorney Moon has been lead counsel for the Plaintiff in this case since its inception, and the Court views the present motion as no more than a stalling tactic. Accordingly, the Court finds that the Plaintiff has failed to show good cause for modification of the existing Scheduling Order, and that the Defendant would be prejudiced if the relief requested were granted.

¹ As of the date of this Order, no other attorney has filed a written entry of appearance on behalf of the Plaintiff.

² The motion for continuance also informs the Court for the first time that Education Management Services has filed five other lawsuits asserting similar claims against other individuals (Docket No. 33, p. 3). The Court considers this to be an isolated fact having no legal or practical significance.

IT IS THEREFORE ORDERED that the Plaintiff's motion for continuance and for extension of pretrial deadlines (Docket No. 33) be, and it is hereby, DENIED.

SIGNED AND ENTERED this 23^d day of April, 2015.


HARRY LEE HUDSPETH
SENIOR UNITED STATES DISTRICT JUDGE